

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4288-01
Bill No.: SB 1167
Subject: Crimes and Punishment; Criminal Procedure; Courts
Type: Original
Date: February 13, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 4 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of Prosecution Services** assume the proposed legislation would have no fiscal impact on prosecutors.

Officials from the **Office of Attorney General (AGO)** assume the cost savings of this proposal are unknown. While the proposal limits those cases subject to the bifurcated trial procedure, it also requires that the attorneys argue the issue of punishment. Because the defendant may still waive the punishment stage, AGO assumes that the fiscal impact will be minimal.

Officials from the **Office of State Public Defender (SPD)** assume the proposal requires them to give notice requesting jury assessment of punishment 30 days following arraignment, but does not require the State to complete discovery until the morning of trial.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

The proposed legislation would limit the bifurcation of a trial to class A or class B felonies. If the jury in the first stage would find the defendant guilty of a class A or B felony, the issue in the second stage would be the assessment of punishment for each crime the defendant is found guilty of in the first stage.

The proposal would require that discovery as to evidence that could be presented in the second stage would be completed prior to beginning of the first stage of the trial. The state would be the first to proceed in the second stage. The attorney must argue the issue of punishment to the jury within the range of punishment authorized by statute for each offense and could argue recommended sentence options and the factors to consider for each offense. For each offense, the court would instruct the jury as to the range of punishment, recommended sentence options, and factors to consider when sentencing, if the defendant would submit a correct instruction containing such information to the court.

Under the proposal, the jury would assess and decide the punishment during the second stage for each crime the jury found the defendant guilty of in the first stage.

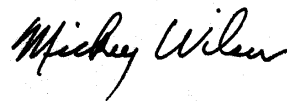
DESCRIPTION (continued)

The second stage of the trial would not proceed and the court would assess punishment instead of the jury unless the defendant would request in writing within 30 days following arraignment that the jury assess punishment. Also, a second stage would not proceed and the court would assess punishment instead of the jury, if the defendant would request in writing that the court assess the punishment before the second stage, the state pleads and proves the defendant is a prior, persistent, dangerous or persistent misdemeanor offender, or the defendant is not found guilty of a class A or B felony.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General
Office of State Courts Administrator
Office of Prosecution Services
Office of State Public Defender

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
February 13, 2004